

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

NORMAN GRAY,

Defendant.

21 Cr. 713 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

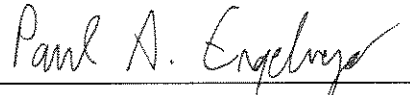
The Court has received the defense's letter seeking relief in connection with the Government's announced intention to seek a renewed search warrant for an iPhone of defendant Norman Gray, Dkt. 85, and the Government's response, Dkt. 86.

The Court's judgment, with the Government, is that it is premature for the Court to take action as to the admissibility at trial of the contents of the iPhone. In the event that the Government seeks and obtains a search warrant for the iPhone and succeeds in gaining access to the iPhone, the Court directs the Government urgently (1) to notify the Court and the defense, (2) to furnish the defense with the warrant application, return, and other associated documentation, (3) to provide the defense with an image forthwith of the iPhone, and (4) to conduct a responsiveness review of the iPhone and to furnish the results of that review to the defense. Any application by the Government for a search warrant is to be made to the duty Magistrate Judge. The Government is not under any obligation to furnish a search warrant application to the defense in advance of the warrant's execution.

In the event the warrant is executed, the defense thereafter will be at liberty to pursue any and all relief, including that identified by the defense in its letter. The relief sought may include suppression of the fruits of the warrant based on a claim of a Fourth Amendment violation. The

defense is also at liberty to seek relief tailored to the burdens that the production of the iPhone's contents may impose given the timing of the warrant request and search relative to the May 20, 2024 trial date. It is premature at this time for the Court to assess whether and to what extent any such claims for relief may prove warranted. *See, e.g., United States v. Handler*, No. 23 Cr. 4 (JHR), 2023 WL 2584217, at \*3 n.7 (S.D.N.Y. Mar. 21, 2023) (denying as “premature” a motion by defendants “effectively seeking the suppression of (unspecified) evidence yielded by the Government’s search of the [defendants’] cellphones” when “the Government represent[ed] that it ha[d] not even begun searching the phones”). In the event motion(s) for relief are anticipated, the Court asks the defense to so notify the Court, to enable the Court to set a rational schedule for briefing such motion(s).

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: March 8, 2024  
New York, New York